REMARKS

The Examiner's indication of allowable subject matter of claims 2 and 9 is noted with appreciation.

Claims 1-11 are pending in the application. The claims have been amended to improve claim language. The specification and Abstract have been revised to be compliant with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The non-statutory obviousness type double patenting rejection is traversed because a prima facie case of obviousness has not been made by the Examiner.

> A double patenting rejection of the obviousness-type is "analogous to... the nonobviousness requirement of *35 U.S.C. 103*" except that the patent principally underlying the double patenting rejection is not considered prior art. *In re Braithwaite*, 379 F.2d 594, 154 USPQ 29 (CCPA 1967). Therefore, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a *35 U.S.C. 103* obviousness determination. *In re Braat*, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985).
>
> Since the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a *35 U.S.C. 103(a)* rejection, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under *35 U.S.C. 103* are employed when making an obvious-type double patenting analysis. The conclusion of obviousness-type double patenting is made in light of the *Graham v. John Deere Co.* factual determinations.
>
> Moreover, any obviousness-type double patenting rejection should make clear:

> (A) The **differences** between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and
>
> (B) The **reasons** why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent. *See MPEP*, section 804 (emphasis added).

In this case, the Examiner's obviousness-type double patenting rejection does not comply with the mandates of *Graham v. John Deere Co.* The Examiner's obviousness-type double patenting rejection also fails to follow proper USPTO practice and procedure. More particularly, the Examiner fails to make clear the *differences* between the inventions defined by the conflicting claims. The Examiner also fails to point out the *reasons* why a person of ordinary skill in the art would conclude that the invention defined in a claim of the instant application is an obvious variation of the invention defined in a corresponding claim in the copending application.

The Examiner's obviousness-type double patenting rejection is therefore inappropriate and should be withdrawn.

Notwithstanding the above and solely for the purpose of expediting prosecution, Applicants submit herewith a Terminal Disclaimer to obviate the double patenting rejection. It should be noted that the filing of the attached Terminal Disclaimer is not an admission of the propriety of the Examiner's rejection which is erroneous for the reasons advanced above.

The objections to the specification and Abstract are believed overcome in view of the above amendments which have been made in the manner kindly suggested by the Examiner in the Office Action.

The objections to claims 2, 4-7 are traversed, because the claim features being objected to do have antecedent basis in independent claim 1. For example, in claim 2, "said first color correction means," "said three-dimensional color correction table," and "said characteristic value" find antecedent basis in claim 1, at lines 3, 5, and 4, respectively.

The objections to claims 3 and 9 are believed overcome in view of the above amendments. specifically, amended claim 3 now recites --a-- color temperature, and amended claim 9 now recites --a-- rewrite.

The rejection of claim 11 under *35 U.S.C. 101* is believed overcome in view of the above amendments. Specifically, claim 11 is not directed to a computer-readable medium which is statutory subject matter.

The art rejections relying on *EP '1178672* is traversed, because the EP reference is not prior art to the present invention. In particular, the *35 U.S.C. 102(a)* reference (publication) date of the EP reference (i.e., February 6, 2002) postdates the claimed priority date (i.e., March 6, 2001) of the instant application. Even the earliest *35 U.S.C. 102(e)* date (i.e., July 30, 2001) of the US counterpart (U.S. Patent No. 6,847,374) of the EP reference is also after the claimed priority date of the instant application. The priority claim in the instant application has been perfected through Applicants' concurrent submission of a sworn English translation of the JP priority document.

Withdrawal of the art rejections relying on the EP reference is now believed appropriate and therefore respectfully requested.

Each of the Examiner's rejections has been traversed/overcome. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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